

REMARKS

In response to the rejection of various of the claims under 35 U.S.C. § 112, second paragraph for indefiniteness, independent claims 1 and 21 have been amended along with dependent claim 3. It is believed that these amendments will remove the basis for the Examiner's rejection and that this rejection should accordingly be reviewed and withdrawn.

The subject matter of claim 2 has been incorporated into claim 1. Claim 9 has been amended so as to refer to the three-dimensional spots which find antecedent basis in claim 3. Claim 12 is amended so as to more specifically define fusion as occurring by the preferred method of ultrasonic welding which is the subject matter of claim 18. Withdrawn claim 15 is amended so as to render it dependent upon claim 1 and to more particularly specify that, in the assay for which the device is designed, there is exposure of the immobilized biological material to the test solution for potential reaction therewith, as via hybridization, as pointed out at page 6, lines 1-2. Claim 21 is amended so as to specify that the three-dimensional spots are attached to only a portion of the upper surface area of the microporous material at the bottom of each well.

It is submitted that amended claims 1 and 21 would not be anticipated by the disclosures of any one of the Examiner's three primary references. U.S. Patent No. 5,264,184 and U.S. Patent No. 6,200,533 are both directed to liquid filtration devices where preparation/extraction of unwanted moieties in a liquid can be carried out. They are unconcerned with the creation of a spot of crosslinked hydrogel polymer atop the upper surface of a microporous membrane located at the bottom of such a well. U.S. Patent No. 6,372,813 to Johnson et al. is not truly pertinent, as it is directed to creating an array wherin polyacrylamide hydrogels are two-dimensionally coated in patches atop an impervious glass plate, see column 6, lines 3-4; although it is

mentioned that the solid support might be in the form of a microwell, there is no teaching of using a microporous bottom through which drainage may occur.

The Examiner's indication that claims 2 and 3 contain allowable subject matter is acknowledged. It is believed that independent claims 1 and 21 would not be anticipated by the disclosure of any one of the three primary references as indicated above, and these claims should now be allowed, along with claims 3-12, which are dependent thereupon. In the Restriction Requirement, it was indicated that in the circumstances of this case, process claims that depend from an allowable product claim would be rejoined pursuant to MPEP § 821.04. It is believed that presently withdrawn claims to the method of using the device of claim 1, i.e. claims 13 and 14, and to the method of making the device of claim 1, i.e. claims 15-19, fall within this category, and rejoinder and examination thereof are respectfully requested upon the allowance of claim 1.

In view of the foregoing amendments and remarks, it is believed that claim 1, 3-19 and 21 should, in the absence of more pertinent prior art, now be allowed, and allowance thereof is respectfully requested. It is believed that issuance of a Notice of Allowance is now appropriate, and favorable action is courteously solicited.

Respectfully submitted,

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